

Form a0odnfd

This document has been electronically entered in the records of the United States Bankruptcy Court for the Southern District of Ohio.

IT IS SO ORDERED.

Dated: February 07, 2013



Lawrence S. Walter
Lawrence S. Walter
United States Bankruptcy Judge

United States Bankruptcy Court
Southern District of Ohio
120 West Third Street
Dayton, OH 45402-1819

In Re:'''

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Case No.: 3:06-bk-62847

*****Debtors0

Chapter: 13

*****Judge: Lawrence S. Walter

**Order Denying Motion for Payment of Unclaimed Funds
Due to Noncompliance with Rules**

This matter is before the Court on the Motion for Payment of Unclaimed Funds (Doc. #25) filed by Brian J. Dilks, funds locator, on behalf of First American Investment, on February 5, 2013.

Having reviewed the Motion, the court finds that it does not comply with the Local Rules of Bankruptcy Procedure as noted below:

- ☐ A motion or application tendered for filing must be accompanied by a mandatory notice that complies with Official Form 20A and fixes the response date and service of response date for twenty-one (21) days from the date of service as set forth in the certificate of service. LBR 9013-1(a), 9013-3(e)(4). The motion is unaccompanied by the mandatory notice.
- ☐ A motion or application tendered for filing shall be accompanied by a certificate of service in accordance with LBR 9013-3. LBR 9013-1(a). The motion is unaccompanied by a certificate of service.
- ☐ Unless the court orders otherwise, and unless specifically limited or expanded by a national or other local bankruptcy rule, every pleading, application, motion, or other paper or document filed shall be served upon the debtor, the debtor's case attorney, the trustee, the United States Trustee, each committee appointed pursuant to the Code, upon any party directly affected by the relief sought, and upon any party who has specifically requested notice. LBR 9013-3(b). The certificate of service accompanying the Motion does not reflect that service was made upon the required parties.

- ☐ A Motion for Payment of Unclaimed Funds must be served on the United States Attorney in accordance with 28 U.S.C. §2042. LBR 3011-1(b). The certificate of service accompanying the Motion does not reflect that service was made upon the United States Attorney.
- ☐ A certificate of service shall be signed. LBR 9013-3(e). The certificate of service accompanying the Motion is unsigned.
- ☐ A certificate of service shall identify, with specificity, the pleading or other paper served. LBR-9013-3(e)(1). The certificate of service accompanying the Motion does not identify the pleading or other paper served.
- ☐ A certificate of service shall state the date of service. LBR 9013-3(e)(2). The certificate of service accompanying the Motion is undated.
- ☐ A certificate of service shall state the method of service. LBR 9013-3(e)(2) and (e)(3). The certificate of service accompanying the Motion does not state the method of service.
- ☐ A certificate of service shall identify, by name and address, each entity served. LBR 9013-3(e)(3). The certificate of service accompanying the Motion does not identify, by name and address, each entity served.
- ☐ When an entity other than the original claimant or assignee files a motion for unclaimed funds, the motion must include the following additional requirements, where applicable, to establish the right to payment of the unclaimed funds: proper authority by the claimant requesting release of the funds and, if the claimant is an individual, photo identification of the claimant, letter of administration or probated will, and/or corporate documents showing proof of ownership of the funds through amendment, merger or dissolution. LBR 3011-1(d). The Motion was not accompanied by the additional required documentation.
- ☒ Other: The Notice contained in the Application for Release of Unclaimed Funds reflects an incorrect court for mailing of responses, as required by LBR 9013-1(a).

The Motion is therefore **DENIED** without prejudice.

IT IS SO ORDERED.

NOTE: A form Motion for Payment of Unclaimed Funds that complies with our Local Bankruptcy Rules has been prepared by the Southern District of Ohio. While the use of this form motion is not required, parties requesting the release of unclaimed funds are strongly encouraged to use the form to ensure Local Rule compliance. The form is available on the Court's website at: http://www.ohsb.uscourts.gov/pdffiles/UNCLAIMED_FUNDS_FORM.pdf.

Copies to:

Default List

United States Attorney
303 Marconi Blvd., Suite 200
Columbus, Ohio 43215

Brian J. Dilks
Managing Member
Dilks & Knopik, LLC
35308 SE Center St
Snoqualmie, WA 98065

Resolution Management LLC
Mark Bohn President
PO Box 25776
Rochester NY 14625

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